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November 7, 2011

**By ECFS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**Re: Request for Confidential Treatment of Second Supplement to Application of SAY-HEY, Inc. for Certification as an eligible provider of Relay Services and Supplement to Application for Waiver, CG Docket No. 10-51**

Dear Ms. Dortch:

On behalf of SAY-HEY, Inc. ("SAY-HEY"), this letter requests confidential treatment of the Exhibit A to the November 7, 2011 Second Supplement to Application of SAY-HEY, Inc. for Certification as an eligible provider of Relay Services ("Certification Application") and First Supplement to its September 29, 2011 Petition for Waiver ("Waiver Petition"). Exhibit A contains confidential and proprietary business information. Accordingly, pursuant to Section 0.459 of the Commission's rules,<sup>1</sup> SAY-HEY requests that Exhibit A be withheld from public inspection under the Commission's rules.

The information contained in Exhibit A to the Response is proprietary and competitively sensitive information that is not customarily disclosed to the public or within the industry. The confidential documents reveal details about SAY-HEY's business set-up, practices and activities, the disclosure of which would cause harm to SAY-HEY. This information is not ordinarily made available to the public by SAY-HEY. The information in Exhibit A is not part of the public record in any jurisdiction. Moreover, failure to treat SAY-HEY's business

<sup>1</sup> 47 C.F.R. § 0.457 and 47 C.F.R. § 0.459.

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information as confidential would provide competitors with an unfair competitive advantage by being granted access to SAY-HEY's proprietary information.

Such competitively sensitive information is exempted from mandatory disclosure under "Exemption 4" of the Freedom of Information Act ("FOIA"),<sup>2</sup> and Section 0.457(d) of the Commission's rules.<sup>3</sup> Exemption 4 allows the withholding of commercial or financial information that is privileged or confidential.<sup>4</sup> The confidentiality requirement is satisfied if substantial competitive injury would likely result from disclosure.<sup>5</sup> SAY-HEY has taken steps to safeguard all of the confidential information from disclosure, and public disclosure of the information identified herein will cause substantial competitive and financial harm to SAY-HEY,<sup>6</sup> more than satisfying the Exemption 4 standard for nondisclosure<sup>7</sup> as well as the criteria set forth in Section 0.459(b) of the Commission's rules.<sup>8</sup> SAY-HEY accordingly requests that the Exhibit A be withheld from public inspection.

In the event that any person or entity requests disclosure of the confidential documents, please notify counsel for SAY-HEY immediately in order to permit it to oppose such request or take such other action to safeguard its interests as it deems necessary. After the Commission concludes its investigation, SAY-HEY requests the return of the confidential information to counsel. However, in the event the Commission has reason to keep the confidential materials after the conclusion of this investigation, SAY-HEY requests that all material be kept under protective seal.

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<sup>2</sup> 5 U.S.C. § 552(b)(4).

<sup>3</sup> 7 C.F.R. § 0.457(d). *See National Parks and Conservation Ass'n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("National Parks"); Southern Company Request for Waiver of Section 90.629 of the Commission's Rules, 14 FCC Rcd 1851, 1860 (1998) ("Southern Company").

<sup>4</sup> 5 U.S.C. § 552(b)(4).

<sup>5</sup> *Public Citizen Research Group v. FDA*, 704 F.2d 1280, 1290-91 (D.C. Cir. 1983) ("*Public Citizen*").

<sup>6</sup> *See National Parks*, 498 F.2d at 770; *Southern Company*, 14 FCC Rcd at 1860.

<sup>7</sup> *See Public Citizen*, 704 F.2d at 1290-91.

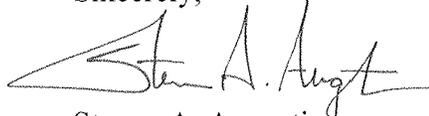
<sup>8</sup> 7 C.F.R. § 0.459(b).

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Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is stylized with a large, sweeping initial "S" and a long horizontal flourish at the end.

Steven A. Augustino

*Counsel to Say-Hey, Inc.*

cc: Greg Hlibock  
Joel Gurin  
Karen Peltz